

Please note: These transcripts are not individually reviewed and approved for accuracy.

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

IN THE MATTER OF THE:)
)
SPECIAL BUSINESS MEETING)
_____)

DATE AND TIME: TUESDAY, JUNE 17, 1997
 9:00 A.M.

PLACE: BOARD CHAMBERS
 8800 CAL CENTER DRIVE SACRAMENTO,
 CALIFORNIA

REPORTER: BETH C. DRAIN, RPR, CSR
 CERTIFICATE NO. 7152

BRS FILE NO.: 39655A

APPEARANCES

MR. DANIEL G. PENNINGTON, CHAIRMAN MR. ROBERT C. FRAZEE,
VICE CHAIRMAN MR. WESLEY CHESBRO, MEMBER
MS. JANET GOTCH, MEMBER
MR. STEVEN R. JONES, MEMBER
MR. PAUL RELIS, MEMBER (NOT PRESENT)

STAFF PRESENT

MR. RALPH CHANDLER, CHIEF EXECUTIVE OFFICER
MS. KATHRYN TOBIAS, LEGAL COUNSEL

MS. MARLENE KELLY, BOARD SECRETARY

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CALL TO ORDER		4
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ITEM 1: CONSIDERATION OF WHETHER TO SCHEDULE A HEARING FOR AN APPEAL FROM A DECISION OF THE SAN DIEGO COUNTY SOLID WASTE INDEPENDENT HEARING PANEL FILED BY SAN ELIJO RANCH, INC.		
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1 SACRAMENTO, CALIFORNIA; TUESDAY, JUNE 17, 1997

2 9 A.M.

3

4 CHAIRMAN PENNINGTON: GOOD MORNING AND
5 WELCOME TO THE SPECIAL -- MORNING AND WELCOME TO
6 THE SPECIAL BOARD MEETING OF THE CALIFORNIA
7 INTEGRATED WASTE MANAGEMENT BOARD. WOULD THE
8 SECRETARY CALL THE ROLL, PLEASE.

9 BOARD SECRETARY: BOARD MEMBER CHESBRO.

10 BOARD MEMBER CHESBRO: HERE.

11 BOARD SECRETARY: FRAZEE.

12 BOARD MEMBER FRAZEE: HERE.

13 BOARD SECRETARY: GOTCH.

14 BOARD MEMBER GOTCH: HERE.

15 BOARD SECRETARY: JONES.

16 BOARD MEMBER JONES: HERE.

17 BOARD SECRETARY: RELIS. CHAIRMAN
18 PENNINGTON.

19 CHAIRMAN PENNINGTON: HERE. QUORUM IS
20 PRESENT.

21 DO WE HAVE ANY EX PARTES ON THIS,
22 MR. CHESBRO?

23 BOARD MEMBER CHESBRO: YES. I ASSUME
24 OTHERS DID AS WELL, BUT I MET WITH KEN CALVERT
OF
25 THE SAN DIEGO LEA AND TOM MONTGOMERY, SAN DIEGO

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1 COUNTY COUNSEL'S OFFICE.

2 BOARD MEMBER GOTCH: I HAD THE SAME
3 MEETING YESTERDAY.

4 BOARD MEMBER JONES: AS DID I, MR.
5 CHAIRMAN.

6 BOARD MEMBER FRAZEE: THE ITEM, A FAX
7 FROM LOUNSBURY, FERGUSON, ALTONA & PEAK, THAT I
8 THINK WE ALL RECEIVED YESTERDAY, HAS NOT BEEN
EX

9 PARTED BY MY OFFICE, SO I ASSUME THAT IT
SHOULD BE

10 INTO THE RECORD TODAY.

11 CHAIRMAN PENNINGTON: OKAY. I MET
WITH

12 MR. CALVERT AND MR. MONTGOMERY YESTERDAY, AND
I

13 ASSUME THAT THIS CAME IN TOO.

14 DO WE NEED SHEETS THIS MORNING?
DO

15 WE HAVE SHEETS? IF ANYBODY WISHES TO ADDRESS
THE

16 BOARD, THERE ARE SPEAKER SLIPS IN THE BACK OF
THE

17 ROOM. AND IF YOU WILL GIVE THEM TO MS. KELLY,
SHE

18 WILL MAKE SURE THAT WE SEE THEM AND CALL ON

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YOU.

19 AND THE ITEM NO. 1 IS

CONSIDERATION

20 OF WHETHER TO SCHEDULE A HEARING FOR AN APPEAL

21 FROM A DECISION OF THE SAN DIEGO COUNTY SOLID

22 WASTE INDEPENDENT HEARING PANEL FILED BY SAN

ELIJO

23 RANCH. MS. TOBIAS.

24 MS. TOBIAS: LIZ CLAYTON WILL BE

25 PRESENTING THIS ITEM. THANK YOU, MR.

CHAIRMAN.

1 MS. CLAYTON: GOOD MORNING, CHAIRMAN,
2 MEMBERS OF THE BOARD. TODAY'S SPECIAL BOARD
3 MEETING INVOLVES AN APPEAL FILED BY SAN ELIJO
4 RANCH OF THE SAN DIEGO COUNTY HEARING PANEL'S
5 DECISION THAT THE LEA NEED NOT ENFORCE CERTAIN
6 ASPECTS OF THE MMP AND THE CUP FOR THE SAN MARCOS
7 LANDFILL.

8 THE SOLE QUESTION FOR TODAY'S
9 MEETING IS WHETHER THE BOARD SHOULD ACCEPT THE
10 APPEAL. THE STANDARD FOR MAKING THIS DECISION IS
11 WHETHER SAN ELIJO RAISED SUBSTANTIAL ISSUES IN ITS
12 APPEAL.

13 LET ME DESCRIBE A LITTLE BIT ABOUT
14 THE AGENDA ITEMS THAT STAFF SUBMITTED. STAFF
15 ORIGINALLY SUBMITTED AN AGENDA ITEM IN EARLY JUNE.
16 WE ANALYZED THESE ISSUES VERY QUICKLY IN ORDER TO
17 MEET THE DEADLINE SO THE AGENDA ITEM COULD BE
18 PRINTED FOR THE MEETING. AT THE TIME WE DIDN'T
19 HAVE ALL THE WRITTEN ARGUMENTS OF THE PARTIES.

20 IN THE ORIGINAL ITEM STAFF
21 RECOMMENDED THAT THE BOARD ACCEPT THE APPEAL FOR
22 ALL THE ISSUES RAISED. AFTER MORE ANALYSIS AND
23 AFTER REVIEWING THE SUBMITTALS FROM ALL THE
24 PARTIES, WE DECIDED TO REFRAME THE OPTIONS FOR THE
25 BOARD AND REWROTE THE AGENDA ITEM.

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1 THE REVISED ITEM THAT YOU'VE SEEN
2 RECOMMENDS THAT THE BOARD REJECT ALL ISSUES EXCEPT
3 THE REVEGETATION PLAN, WHICH WE RECOMMEND THAT THE
4 BOARD POSTPONE UNTIL NEXT FALL. WE DO APOLOGIZE
5 FOR THE SHORT TIME FRAME FOR YOU TO REVIEW THE
6 REVISED AGENDA, BUT WE BELIEVE WE'VE NOW PRESENTED
7 A THOROUGH ANALYSIS OF THE ISSUES.

8 ALSO, AS YOU KNOW, THE LEGAL OFFICE
9 HAS AN ITEM GOING FORWARD TO THE P&E COMMITTEE
10 TODAY WHICH REQUESTS THE BOARD TO DELEGATE TO THE
11 EXECUTIVE DIRECTOR THE AUTHORITY TO DECIDE WHETHER
12 TO ACCEPT AN APPEAL FROM A HEARING PANEL DECISION.
13 WE HOPE THAT THIS SOLUTION WOULD SOLVE THE PROBLEM
14 OF QUICK TURNAROUNDS FOR AGENDA ITEMS AND ALSO THE
15 NEED FOR SPECIAL BOARD MEETINGS.

16 I'D LIKE TO FIRST GO OVER VERY
17 BRIEFLY THE OPTIONS FOR THE BOARD AND THEN AGAIN
18 VERY BRIEFLY EXPLAIN OUR RECOMMENDATION. THE
19 OPTIONS ARE SEPARATED INTO TWO CATEGORIES, THE MMP
20 ISSUES AND THE CUP ISSUE.

21 WITHIN THE MMP ISSUES ARE THREE
22 SUBISSUES: LANDSCAPING, EASEMENTS, AND THEN
23 REVEGETATION AFTER CLOSURE OF THE LANDFILL.

24 ON THE MMP ISSUES THE STAFF
25 RECOMMENDATION IS THAT THE BOARD REJECT HEARING

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1 THE LANDSCAPING AND EASEMENT ISSUES SINCE THESE
2 DEAL WITH OPERATION OF THE LANDFILL WHICH IS NOW
3 CLOSED. ALSO, WE RECOMMEND THAT THE BOARD
4 POSTPONE HEARING THE REVEGETATION ISSUE UNTIL
5 AFTER THE OPERATOR'S SUBSEQUENT EIR IS CERTIFIED
6 IN AUGUST OR SEPTEMBER.

7 THERE ARE SEVERAL OTHER OPTIONS AS
8 WELL. THE BOARD COULD REJECT HEARING ALL THE MMP
9 ISSUES BECAUSE THE DRAFT SUBSEQUENT EIR, WHICH
10 WILL BE CIRCULATED FOR PUBLIC REVIEW LATER THIS
11 MONTH, COULD RESOLVE ALL THE CEQA ISSUES INVOLVED.
12 AND IF THE ISSUES AREN'T RESOLVED AT THAT POINT,
13 SAN ELIJO COULD FILE ANOTHER APPEAL.

14 ALSO, THE BOARD COULD POSTPONE
15 HEARING ALL THE MMP ISSUES UNTIL THE SUBSEQUENT
16 EIR IS CERTIFIED NEXT FALL.

17 AND FINALLY, THE BOARD COULD ACCEPT
18 THE LANDSCAPING AND THE EASEMENT ISSUES FOR
19 HEARING AT THE NEXT BOARD MEETING, PROBABLY IN
20 JULY, AND THEN EITHER POSTPONE THE REVEGETATION
21 ISSUE UNTIL AFTER THE EIR IS CERTIFIED OR SIMPLY
22 REJECT THE REVEGETATION ISSUE.

23 ON THE CUP ISSUE THE QUESTION
24 PRESENTED ON THIS ISSUE IS WHETHER THE LEA SHOULD
25 HAVE ENFORCED THE TERMS OF THE CUP SINCE IT WAS

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1 INCORPORATED BY REFERENCE INTO THE LANDFILL
2 PERMIT. STAFF RECOMMEND ON THE CUP ISSUE THAT THE
3 BOARD REJECT IT SINCE THE STATE HAS NO AUTHORITY
4 TO ENFORCE A LOCAL CUP, OR THE BOARD COULD ACCEPT
5 HEARING THE ISSUE, OR THE BOARD COULD POSTPONE
6 HEARING THE CUP ISSUE AND HEAR IT ALONG WITH ALL
7 THE MMP ISSUES AFTER THE EIR IS CERTIFIED.

8 LET ME PROVIDE YOU WITH JUST A
9 LITTLE MORE DETAIL ON OUR STAFF RECOMMENDATION.
10 THE MMP ISSUES REGARDING OPERATION, THAT IS THE
11 LANDSCAPING AND THE EASEMENTS, STAFF RECOMMEND
12 THAT THE BOARD REJECTS HEARING THESE ISSUES FOR
13 SEVERAL REASONS.

14 FIRST, THE LANDFILL IS CLOSED, AND
15 OPERATIONAL REQUIREMENTS, SUCH AS LANDSCAPING AND
16 EASEMENTS, ARE MOOT.

17 SECOND, THE PROJECT WHICH WAS
18 ANTICIPATED WHEN THE MMP WAS PREPARED HAS NOW
19 CHANGED. THE HORIZONTAL EXPANSION NEVER OCCURRED,
20 AND ONLY A SMALL PORTION OF THE VERTICAL EXPANSION
21 OCCURRED.

22 AND THIRD, SAN ELIJO APPEALED TO THE
23 HEARING PANEL JUST DAYS BEFORE THE LANDFILL CLOSED
24 IN MARCH 1997. THE APPEAL TO THE BOARD WASN'T
25 RECEIVED UNTIL WELL AFTER THE LANDFILL WAS CLOSED,

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1 WHICH MEANS THAT THE BOARD HAS NOT BEEN GIVEN THE
2 OPPORTUNITY OF HEARING THE APPEAL WHILE THE ISSUES
3 WERE STILL RELEVANT.

4 ON THE MMP REVEGETATION ISSUE, STAFF
5 RECOMMEND THAT THE BOARD POSTPONES THIS HEARING
6 UNTIL AFTER THE NEW EIR IS CERTIFIED. THIS WAY
7 STAFF CAN DETERMINE WHETHER THE CLOSURE/
8 POSTCLOSURE PLAN IS IN COMPLIANCE WITH THE LATEST
9 CEQA DOCUMENT.

10 ON THE CUP ISSUE, STAFF RECOMMEND
11 THAT THE BOARD REJECTS THIS ISSUE FOR SEVERAL
12 REASONS. FIRST, A STATE AGENCY -- THE STATE IN
13 GENERAL HAS DELEGATED CONTROL OVER LOCAL ISSUES
14 SUCH AS WASTE MANAGEMENT TO LOCAL GOVERNMENTS.
15 ALSO, IF SOMEONE DOESN'T COMPLY WITH A LOCAL LAW
16 IN GENERAL, THE LOCAL GOVERNMENT MUST ENFORCE THAT
17 LAW. AND IF THE LOCAL GOVERNMENT DOESN'T ENFORCE
18 IT, THE REMEDY FOR A PARTY IS TO GO TO SUPERIOR
19 COURT, NOT TO GO TO A STATE AGENCY SUCH AS THIS
20 BOARD.

21 THIRD, THE CUP ITSELF PROVIDES FOR
22 CONTROL OVER THE TERMS OF THIS CUP. THIS CONTROL
23 IS GIVEN TO THE CITY AND NO OTHER ENTITY IN THE
24 CUP ITSELF.

25 AND FINALLY, THE LANGUAGE IN THE

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1 PERMIT, WHICH ADOPTS THE CUP BY REFERENCE, DOESN'T
2 CHANGE THE NATURE OF ENFORCEMENT OF THE CUP.
3 SINCE THE CITY NORMALLY ENFORCES THE CUP, THEN THE
4 CITY OF SAN MARCOS AND NOT THE BOARD CAN ENFORCE
5 COMPLIANCE.

6 THERE ARE SEVERAL PEOPLE HERE TODAY
7 WHO WISH TO SPEAK, AND WE WOULD RECOMMEND THAT YOU
8 HEAR THESE SPEAKERS IN THIS ORDER. FIRST, WE HAVE
9 STEVE MCDONALD, WHO'S THE ATTORNEY FOR SAN ELIJO
10 RANCH. AND THEN NEXT WE WOULD SUGGEST THAT YOU
11 HEAR KEN CALVERT FROM THE LEA. AND AFTER KEN, WE
12 WOULD RECOMMEND YOU HEAR TOM MONTGOMERY, WHO IS
13 KEN'S OR THE LEA'S COUNSEL. TOM IS FROM THE SAN
14 DIEGO COUNTY COUNSEL'S OFFICE. THEN WE HAVE MARK
15 BEASLEY, WHO'S ALSO A COUNTY COUNSEL, BUT HE
16 REPRESENTS THE COUNTY AS OPERATOR. AND THEN
17 FINALLY WE HAVE JOE MINNER, WHO IS FROM THE COUNTY
18 OPERATOR. HIS TITLE IS -- HE IS AT SOLID WASTE
19 SERVICES, AND HE IS THE OPERATOR OF THE
LANDFILL.

20 AND I BELIEVE YOU MAY HAVE GOTTEN
A

21 COUPLE OF SPEAKER SLIPS FROM THE PUBLIC, AND WE
22 WOULD RECOMMEND THAT THOSE GO LAST.

23 ARE THERE ANY QUESTIONS FOR STAFF
24 BEFORE WE START THE PARTIES' PRESENTATIONS?

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25

YOU.

CHAIRMAN PENNINGTON: OKAY. THANK

1 WE'LL CALL STEVE MCDONALD REPRESENTING THE SAN
2 ELIJO RANCH.

3 MR. MCDONALD: I'M STEVEN MCDONALD OF
4 LUCE, FORWARD, HAMILTON & SCRIPPS, REPRESENTING
5 SAN ELIJO RANCH, THE PETITIONER HEREIN.

6 I THINK YOUR COUNSEL ADEQUATELY
7 ADDRESSED THE ISSUE HERE TODAY. THE SOLE QUESTION
8 IS WHETHER OR NOT THIS BOARD SHOULD CONSIDER THESE
9 ISSUES AND RENDER A DECISION ON THEM. IT IS NOT
10 TO DETERMINE THE MERITS OF WHETHER OR NOT, YOU
11 KNOW, WHO'S RIGHT OR WRONG.

12 I WANTED TO JUST LET YOU KNOW SORT
13 OF WHAT THIS IS ALL ABOUT. I MEAN THERE'S SOME
14 LEGAL ISSUES ABOUT ENFORCEABILITY OF CUP
15 CONDITIONS AND OTHERS. I'VE HANDED OUT YESTERDAY
16 TO YOUR BOARD THE POSITION OF SAN ELIJO RANCH
17 DEALING WITH THE REVISED STAFF REPORT ON EACH OF
18 THESE ISSUES.

19 WE'VE ALSO, UPON MEETING WITH YOUR
20 COUNSEL AND UNDERSTANDING THE CONCERNS WITH
21 PROCEEDING NOW ON THE MERITS AND THE CONSIDERATION
22 OF PERHAPS HAVING AN EIR AND SOME OTHER THINGS
23 TAKE PLACE, THAT MIGHT MAKE SENSE TO HAVE THESE
24 THINGS CONSIDERED LATER. I HAVE ANOTHER
25 SUBMISSION THAT I BROUGHT IN THIS MORNING MAKING A

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1 RECOMMENDATION THAT THE BOARD CONTINUE
2 CONSIDERATION OF WHETHER TO HAVE A HEARING ON
3 THESE ISSUES UNTIL AUGUST, AND AT THAT TIME HAVE A
4 MUCH FULLER PICTURE OF THE ISSUES THAT ARE AT
5 STAKE AND HAVE A MUCH BETTER IDEA OF WHAT SHOULD
6 BE HEARD AND SHOULDN'T BE HEARD AT THAT TIME.
7 THIS WOULD BE WITHOUT PREJUDICE TO ANY PARTIES
8 MAKING ARGUMENTS AS TO WHAT THE BOARD SHOULD OR
9 SHOULDN'T HEAR AT THAT POINT IN TIME.

10 ONE OF THE THINGS I WANTED TO BRING
11 OUT IS I'VE GOT JUST TWO QUICK PHOTOS. I MEAN
12 THIS IS WHAT WE'RE TALKING ABOUT HERE. THIS ISN'T
13 JUST SOME ESOTERIC LEGAL QUESTION. I MEAN HERE'S
14 AN AERIAL VIEW OF THE SAN MARCOS LANDFILL IN
15 AUGUST OF LAST YEAR. THIS IS TAKEN ROUGHLY FROM
16 AN AERIAL VIEW JUST ABOVE WHERE SAN ELIJO RANCH IS
17 LOCATED. AND THEN WE HAVE TWO PICTURES, ONE IS
18 THE WEST FACING SLOPE IN NOVEMBER '95 AND THEN A
19 MAY '95 PICTURE OF THE SLOPE OF THIS LANDFILL.

20 WHAT'S REALLY AT STAKE HERE IN
TERMS
21 OF THE SUBSTANCE OF ALL OF THIS IS WHAT'S THIS
22 LANDFILL GOING TO LOOK LIKE. THE LANDFILL
DURING
23 THE PERIOD OF ITS OPERATIONS HAS NEVER BEEN

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24 PROPERLY LANDSCAPED. THE COUNTY HAS BEEN FOUND
IN
25 VIOLATION OF ITS MITIGATION REQUIREMENTS. AND
THE

1 ISSUE THAT'S BEING PRESENTED HERE IS THAT AFTER
2 HAVING APPEALED THIS TO -- HAVING PETITIONED THE
3 LEA TO TAKE ACTION DURING THE PERIOD OF OPERATION
4 OF THE LANDFILL, THEN HAVING TAKEN IT TO THE
5 HEARING PANEL, ALL OF A SUDDEN WE FIND OURSELVES
6 IN A SITUATION WHERE THE COUNTY AND THE LEA ARE
7 TAKING THE POSITION THAT ALL THESE REQUIREMENTS
8 FOR MITIGATION MEASURES HAVE SUDDENLY DISAPPEARED
9 BECAUSE THE COUNTY HAS NOT BEEN ACCEPTING WASTE.

10 WE THINK, AS A MATTER OF POLICY AND
11 LAW, THAT IS JUST ABSOLUTELY ASTONISHING THAT THE
12 LEA WOULD BE ADOPTING THE POSITION THAT AN
13 OPERATOR CAN BE FREE OF ALL THE REQUIREMENTS, ANY
14 ONGOING REASONS FOR LANDSCAPING, FOR EASEMENTS,
15 FOR ANY OTHER PERMANENT-TYPE REQUIREMENTS OF THE
16 SOLID WASTE FACILITIES PERMIT TO MAGICALLY
17 DISAPPEAR JUST BECAUSE THEY QUIT ACCEPTING WASTE.

18 THAT IS THE ISSUE WE THINK YOU
OUGHT

19 TO HEAR BECAUSE THAT IS FUNDAMENTALLY IMPORTANT,
20 AND ULTIMATELY IT'S IMPORTANT TO SAN ELIJO RANCH
21 AND THE OTHER NEIGHBORS HERE AS TO WHAT IS GOING
22 TO BE HAPPENING OUT THERE AT THIS LANDFILL. THE
23 CLOSURE PLAN, WHICH WILL BE IN PLACE LATER ON --
24 UNFORTUNATELY THE COUNTY DOESN'T HAVE AN

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APPROVED

25 CLOSURE PLAN -- WILL ADDRESS SOME OF THESE
ISSUES,

1 BUT THE MITIGATION REQUIREMENTS ARE FIRM
2 REQUIREMENTS OF LAW AS OF TODAY. AND THE COUNTY
3 IS SAYING THAT, WELL, MAYBE WE'LL BE ABLE TO
4 CHANGE THESE WITH SOME SUBSEQUENT ACTION AND A
5 SUBSEQUENT EIR.

6 MAYBE CAN; MAYBE CAN'T. POINT IS
7 TODAY THEY HAVE NOT RELEASED THAT EIR. IF THEY
8 SUBSTANTIALLY TRY TO GET OUT OF ALL OF THESE
9 LANDSCAPING REQUIREMENTS, THERE'S SURE TO BE
10 ADDITIONAL CONTENTION. AND WE THINK THIS BOARD
11 OUGHT TO HEAR THESE MATTERS AND FIRMLY SAY THAT
12 THEY ARE REQUIRED TO IMPLEMENT THESE MITIGATION
13 MEASURES UNLESS THERE'S SOME OTHER ACTION THAT'S
14 BEEN TAKEN. I MEAN A CLOSURE PLAN HAS BEEN
15 APPROVED AND THEY'VE MET THEIR BURDEN OF SHOWING
16 IT'S JUST IMPOSSIBLE TO COMPLY OR TECHNOLOGICALLY
17 INFEASIBLE OR ECONOMICALLY INFEASIBLE.

18 IF THEY CAN MAKE THOSE KINDS OF
19 SHOWINGS, THEN THERE'S SOMETHING TO ARGUE ABOUT.
20 BUT WE THINK THE BOARD SHOULD GO AHEAD AND HEAR
21 THESE. I'VE SUBMITTED TODAY, AFTER TALKING WITH
22 YOUR COUNSEL, A PROPOSAL THAT THIS BOARD CONTINUE
23 UNTIL AUGUST A DETERMINATION OF WHAT OUGHT TO BE
24 HEARD. THERE'S OTHER THINGS THAT ARE GOING ON,
25 THE SUBSEQUENT EIR THAT WE'VE HEARD TODAY, AND I

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1 PRESUME THE COUNTY WILL REAFFIRM THIS, OUGHT TO BE
2 RELEASED THIS MONTH. THAT WILL CRYSTALLIZE SOME
3 OF THESE ISSUES FROM THE ABSTRACT ABOUT DO THEY
4 HAVE ENOUGH LANDSCAPING INTO LOOKING AT WHAT THEY
5 NOW -- THE COUNTY NOW BELIEVES ARE THE MITIGATION
6 MEASURES THAT ARE NECESSARY AND WE'LL REALLY BE
7 ABLE TO SEE THE DIFFERENCES.

8 WE ALSO ARE IN A SITUATION WHERE
9 JUST LAST WEEK WE HAD A HEARING PANEL DENY SAN
10 ELIJO'S CHALLENGE TO AN INTERIM ORDER OR AN ORDER
11 FOR INTERIM MEASURES THAT WAS ISSUED TO THE
12 COUNTY. THIS ORDER, BECAUSE THEY DIDN'T HAVE A
13 CLOSURE PLAN, ORDERED THEM TO TAKE SOME MEASURES
14 TO BE PROTECTIVE UNTIL A CLOSURE PLAN IS IN PLACE.

15 WELL, THE COUNTY IS NOW TAKING THAT
16 ORDER, GOING BACK INTO COURT, AND TRYING TO GET
17 OUT OF THE MITIGATION MEASURES, SAYING THAT THE
18 LEA IS NOW ORDERING THEM TO DO THINGS THAT ARE
19 GOING TO BE CONTRARY TO THE REQUIREMENTS OF THEIR
20 MITIGATION MEASURES. THAT WE ARE GOING TO
APPEAL.

21 IT WILL BE APPEALED WITHIN THE NEXT 30 DAYS TO
22 YOUR BOARD, AND THAT'S ANOTHER MATTER THAT
RELATES

23 TO THE SAME FUNDAMENTAL ISSUE OF MITIGATION

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24 MEASURES .

25 SO WE THINK THAT THESE OUGHT TO BE

1 PUT OFF AND CONSIDERED TOGETHER. IN TERMS OF
2 WHETHER TO HAVE A HEARING, ALL PARTIES PRESERVING
3 THEIR RIGHTS TO ARGUE WHETHER OR NOT YOU SHOULD
4 HEAR ANY SPECIFIC ISSUE AT THAT TIME, THE BOARD
5 WOULD HAVE A MUCH MORE COMPLETE RECORD TO PROCEED.

6 ONE OF THE ALTERNATIVES,
7 UNFORTUNATELY, OF DENYING US TODAY THE RIGHT TO A
8 HEARING IS A 30-DAY CLOCK IS GOING TO START WHERE
9 MY CLIENT WILL HAVE TO MAKE A DECISION AS TO
10 WHETHER THEY ACCEPT THAT WITH POTENTIAL FINALITY
11 OR WHETHER WE GO INTO SUPERIOR COURT IN ORDER TO
12 CHALLENGE THAT. AND WE DO NOT THINK IT'S IN THE
13 INTEREST OF THIS BOARD, OF OUR CLIENT, WE DON'T
14 EVEN THINK IT'S IN THE COUNTY'S INTEREST TO BE IN
15 A SITUATION WHERE IN ORDER TO PRESERVE THE RIGHTS
16 THAT WE THINK OUGHT TO BE HEARD BY THIS BOARD,
17 THAT WE MAY HAVE TO BE IN COURT AT THE SAME TIME
18 YOU'RE CONSIDERING SOME ISSUES AND AT THE SAME
19 TIME MORE ISSUES ARE GOING TO BE BROUGHT TO YOU
20 WITHIN THE NEXT MONTH.

21 SO WE RESPECTFULLY REQUEST THAT
YOU
22 CONTINUE CONSIDERATION OF WHETHER OR NOT TO
HEAR
23 THESE ISSUES UNTIL AUGUST. MY CLIENT WILL GO

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ON

24 THE RECORD NOW AS WAIVING THEIR RIGHT TO A
25 DETERMINATION WITHIN 60 DAYS OF THESE ISSUES.
WE

1 DO NOT THINK THAT SHOULD BE AN IMPEDIMENT TO A
2 CONSIDERED AND EFFICIENT UNDERSTANDING OF THESE
3 ISSUES, AND WE THINK AT THE HEARING IN AUGUST YOU
4 WILL HAVE A MUCH FULLER PICTURE OF WHAT'S GOING
5 ON, AND AT THAT TIME YOU OUGHT TO BE MAKING THESE
6 JUDGMENTS. AND WE RESPECTFULLY REQUEST THAT YOU
7 DO THAT. I'M PREPARED TO ANSWER ANY QUESTIONS YOU
8 MIGHT HAVE.

9 CHAIRMAN PENNINGTON: QUESTIONS OF MR.
10 MCDONALD? OKAY. THANK YOU.

11 MR. MCDONALD: THANK YOU, MR. CHAIRMAN.

12 CHAIRMAN PENNINGTON: NEXT IS BOB FOX, OR
13 DO YOU WANT TO WAIT UNTIL THE END? THEN WE'LL
14 HAVE KEN CALVERT.

15 MR. CALVERT: MY NAME IS KEN CALVERT.
16 I'M CHIEF OF THE SAN DIEGO COUNTY LEA. I'D LIKE
17 TO THANK THE BOARD FOR THEIR PATIENCE AND THEIR
18 TRYING TO UNDERSTAND AND MAKE DECISIONS ON THESE
19 ISSUES. I'M GOING TO LEAVE MY TECHNICAL
ARGUMENTS

20 TO TOM MONTGOMERY, WHO WILL SPEAK NEXT.

21 BUT I WANTED THE BOARD TO KNOW AND
22 UNDERSTAND THAT IN MAKING DECISIONS REGARDING THE
23 ALLEGATIONS THAT SAN ELIJO HAS BROUGHT BEFORE THE
24 LEA, THAT WE HAVE WEIGHED THOSE DECISIONS
25 CAREFULLY. WE'VE CONSIDERED THE ALLEGATIONS

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1 THOROUGHLY. WE'VE DONE THAT IN VIEW OF OUR
2 UNDERSTANDING OF AB 1220 AND OUR UNDERSTANDING OF
3 AB 59, AND WE'VE ALSO DONE THAT IN CONSULTATION
4 WITH BOARD STAFF.

5 SO I JUST WANTED YOU TO KNOW THAT
6 WE'VE CONSIDERED THESE THINGS CAREFULLY. WE'VE
7 MADE THE DECISIONS WE'VE MADE BASED ON OUR
8 UNDERSTANDING OF THE LAW AND THE REGULATIONS
9 REGARDING THE OPERATION OF THE SAN MARCOS
10 LANDFILL.

11 AND WITH THAT, I'D ALSO LIKE TO SAY
12 THAT WE AGREE WITH THE STAFF REPORT THAT'S BEFORE
13 YOU WITH THE EXCEPTION THAT WE'D LIKE YOU TO
14 CONSIDER ON ITEM 1(C) TO ALSO NOT HEAR THAT. WE
15 FEEL THAT THAT'S SOMETHING WHICH SAN ELIJO COULD
16 APPEAL LATER IF THEY CHOSE TO. WITH THAT, I THANK
17 YOU. ANY QUESTIONS?

18 CHAIRMAN PENNINGTON: ANY QUESTIONS OF
19 MR. CALVERT?

20 MY ONLY QUESTION IS THIS OFFER TO
21 POSTPONE THE WHOLE THING, WHERE DO YOU ALL STAND
22 ON THAT?

23 MR. CALVERT: I WOULD ASK THE BOARD TO
24 NOT POSTPONE THIS ITEM AND ASK THE BOARD TO MAKE
25 THE DECISION TODAY BASED ON THE APPEAL THAT'S

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1 BEFORE YOU, AND THAT WE WOULD LIKE TO DEAL WITH
2 THESE ISSUES SEPARATELY. AND WE THINK THAT
3 PUTTING IT OFF WILL CONFUSE THESE ISSUES.

4 CHAIRMAN PENNINGTON: THANK YOU. NEXT WE
5 HAVE THOMAS MONTGOMERY.

6 MR. MONTGOMERY: THOMAS MONTGOMERY,
7 DEPUTY COUNTY COUNSEL, REPRESENTING THE LOCAL
8 ENFORCEMENT AGENCY. AND AS TO -- I WILL ADDRESS
9 FIRST THE ISSUE AS FAR AS PUTTING THESE OFF UNTIL
10 AUGUST.

11 THE LEA'S POSITION IS REALLY THAT IN
12 ASKING FOR THAT, SAN ELIJO HAS MADE ITS POINT AS
13 FAR AS THESE ISSUES RELATING TO THE MMP AND THE
14 CUP, WHICH IS TO SAY THAT THE DECISIONS THAT THE
15 LEA MADE, WHICH ARE NOW BEING APPEALED TO YOUR
16 BOARD, WERE MADE WHEN THERE WAS A SOLID WASTE
17 FACILITIES PERMIT AND THERE WAS AN OPERATING
18 LANDFILL.

19 TIMES HAVE CHANGED SINCE THAT
20 OCCURRED. AND WE ARE NOW IN THE MIDDLE OF TRYING
21 TO DO A FINAL REVIEW OF A CLOSURE PLAN, AND THE
22 COUNTY IS DOING ADDITIONAL ENVIRONMENTAL REVIEW.
23 THE FACT THAT THEY ARE ASKING TO DELAY THE
24 DECISION THAT WAS MADE BACK WHEN WE HAD THAT

SOLID

25 WASTE FACILITIES PERMIT IS SHOWING THAT IT'S

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1 TRYING TO COMBINE THAT APPLE WITH THE ORANGES OF
2 THE CLOSURE PLAN. THE LEA FEELS THAT THAT'S NOT
3 APPROPRIATE AT THIS TIME. IT'S GOING TO CONFUSE
4 MATTERS, AND IT'S ALSO GOING TO GET A NEW
5 ENVIRONMENTAL DOCUMENT INTO SOMETHING THAT THE LEA
6 AND THE HEARING PANEL DIDN'T HAVE TO CONSIDER AT
7 THE TIME THEY MADE DECISIONS WHICH YOU WOULD BE
8 REVIEWING.

9 AS FAR AS THE CUP IS CONCERNED, THE
10 LEA IS VERY SUPPORTIVE OF YOUR STAFF POSITION.
11 THE ONLY ISSUE THAT THE LEA CONTENDS -- HAS A
12 CONTENTION WITH IS ITEM NO. 1(C). AND AS FAR AS
13 THAT REVEGETATION ITEM, THE SAME ARGUMENT I WOULD
14 MAKE WITH RESPECT TO REVEGETATION AS I DID WITH
15 THE OTHER ITEMS, WHICH IS THAT THE ISSUE PRESENTED
16 TO THE LEA, WHICH IT MADE ITS DECISION ON, WAS
17 WHETHER OR NOT TO ENFORCE ITEMS REGARDING
18 REVEGETATION WITH RESPECT TO THAT SOLID WASTE
19 FACILITIES PERMIT FOR AN OPERATING LANDFILL. WE
20 DON'T HAVE AN OPERATING LANDFILL. WE'RE IN THE
21 MIDDLE OF DOING CLOSURE, AND THOSE ISSUES SHOULD
22 NOT BE COMBINED.

23 UNLESS THERE ARE ANY OTHER
24 QUESTIONS, I HAVE NOTHING ELSE.

25 CHAIRMAN PENNINGTON: QUESTIONS OF MR.

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1 MONTGOMERY?

2 BOARD MEMBER GOTCH: MR. MONTGOMERY, THE
3 COMPLETION DATE OF THE CLOSURE PLAN IS WHEN?

4 MR. MONTGOMERY: THE COMPLETION DATE WE
5 HAVE -- IN OUR NOTICE AND ORDER, WE REQUIRED THAT
6 THE COMPLETION DATE BE -- THAT IT BE SUBMITTED TO
7 THE REGULATORY AGENCIES IN EARLY SEPTEMBER.

8 BOARD MEMBER GOTCH: THANK YOU.

9 CHAIRMAN PENNINGTON: OKAY. THANK YOU,
10 MR. MONTGOMERY.

11 NEXT WE'LL HEAR FROM MARK BEASLEY.

12 MR. BEASLEY: GOOD MORNING, BOARD
13 MEMBERS. MY NAME IS MARK BEASLEY, AND I AM A
14 DEPUTY COUNTY COUNSEL WITH THE COUNTY OF SAN
15 DIEGO. I REPRESENT SOLID WASTE SERVICES.

16 I THINK ONE OF THE MOST IMPORTANT
17 THINGS FOR YOUR BOARD TO REMEMBER HERE IS WHAT
18 WE'RE TRYING TO ENFORCE OR WHAT SAN ELIJO IS
19 TRYING TO ENFORCE SO AS FAR AS THE MITIGATION
20 MEASURES ARE CONCERNED ON THIS PROJECT. THERE ARE
21 MEASURES FOR A PROJECT WHICH WAS NEVER
22 CONSTRUCTED. IF YOU JUST LOOK AT IT VERY SIMPLY,
23 ARE THE VISUAL IMPACTS OF A LANDFILL THAT GO UP TO
24 950 FEET DIFFERENT FROM THE IMPACTS OF A LANDFILL
25 THAT GOES UP 800 FEET?

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1 WELL, OF COURSE, THEY ARE. AND IT'S
2 REASONABLE FOR THE COUNTY AT THIS TIME TO BE
3 PREPARING A SUBSEQUENT ENVIRONMENTAL IMPACT REPORT
4 TO ANALYZE THOSE DIFFERENT VISUAL IMPACTS AND
5 ADOPT FEASIBLE AND REASONABLE MITIGATION MEASURES
6 FOR THAT PROJECT.

7 THE SAME ANALYSIS APPLIES TO THE
8 EASEMENT QUESTION. ARE LAND USE ISSUES DIFFERENT
9 FOR A PROJECT WHICH WAS ANTICIPATED TO LAST FOR 15
10 TO 20 YEARS AS OPPOSED TO A PROJECT THAT WAS
11 GOING -- THAT LASTED FOR JUST OVER THREE YEARS?
12 OF COURSE, THOSE LAND USE ISSUES ARE DIFFERENT.
13 AND THAT'S WHY WE NEED AT THIS POINT A NEW
14 ENVIRONMENTAL IMPACT REPORT TO ANALYZE WHAT
15 MITIGATION MEASURES FOR THAT TYPE OF A PROJECT ARE
16 FEASIBLE AND REASONABLE.

17 AND THAT'S EXACTLY THE PROCESS THE
18 SOLID WASTE SERVICES OF THE COUNTY HAS EMBARKED ON
19 IN PREPARING A SUBSEQUENT ENVIRONMENTAL IMPACT
20 REPORT.

21 COUNSEL FOR SAN ELIJO PRESENTED SOME
22 PHOTOGRAPHS FOR YOUR BOARD TO LOOK AT AS THE
23 LANDFILL LOOKED IN 1995 AND 1996. WITHOUT
24 COMMENTING ON THE QUALITY OF THE PHOTOGRAPHS,
THE
25 COLORATION, OR ANY OF THOSE THINGS, LET ME

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POINT

1 OUT THAT ANY LANDSCAPING ON ANY OF THESE SLOPES
2 THAT ARE DEPICTED IN THESE PHOTOGRAPHS WILL BE
3 TORN OUT AT THE TIME THAT THE LANDFILL IS CLOSED,
4 FINAL COVER IS PLACED ON THE LANDFILL, AND THE
5 REVEGETATION PLAN IS IMPLEMENTED.

6 SO WE SUPPORT YOUR STAFF'S
7 RECOMMENDATION THAT YOU REJECT THESE ITEMS FOR
8 APPEAL. THEY ARE MOOT TO THE EXTENT THAT THE
9 PROJECT FOR WHICH THE MMP WAS ADOPTED WAS NEVER
10 CONSTRUCTED, THE CUP IS INDEPENDENTLY ENFORCEABLE.
11 AND WITH ONE EXCEPTION, HOWEVER, WE DO TO TAKE TO
12 THE STAFF RECOMMENDATION, AS MR. MONTGOMERY
13 INDICATED. THE STAFF'S RECOMMENDATION TO YOUR
14 BOARD IS TO POSTPONE A DECISION ON THE
15 REVEGETATION TO SOME POINT DOWN THE LINE.

16 THE LOCAL ENFORCEMENT AGENCY HAS NOT
17 AT THIS TIME HAD AN OPPORTUNITY TO REVIEW THE
18 FINAL REVEGETATION PROGRAM FOR THE LANDFILL
19 BECAUSE THAT FINAL REVEGETATION PROGRAM HAS NOT
20 BEEN FINALLY DEVELOPED. THAT WILL BE PART OF THE
21 EIR PROCESS. IT HASN'T BEEN REVIEWED BY THE LEA,
22 AND SO FOR THIS BODY TO REVIEW THAT BEFORE THE
LEA
23 HAS DONE SO WOULD BE DEPRIVING THE LEA OF ITS
24 JURISDICTIONAL DUTY TO DO THAT FIRST AND THEN
GIVE

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25 YOUR BOARD AN OPPORTUNITY TO REVIEW THAT ON THE

1 RECORD.

2 SO FOR THESE REASONS, WE WOULD URGE
3 YOUR BOARD AT THIS TIME TO REJECT ALL OF THE
4 ISSUES THAT SAN ELIJO HAS RAISED ON THIS APPEAL
5 AND NOT TO LET YOURSELVES BE THREATENED BY
6 LAWSUITS BY SAN ELIJO OR ANYONE ELSE. IT'S A
7 SOUND DECISION. WE URGE YOU TO MAKE IT.

8 CHAIRMAN PENNINGTON: ANY QUESTIONS?

9 BOARD MEMBER CHESBRO: MR. CHAIRMAN.

10 CHAIRMAN PENNINGTON: MR. CHESBRO.

11 BOARD MEMBER CHESBRO: DO I UNDERSTAND
12 YOU TO BE SAYING THAT VISUAL IMPACTS WILL BE FULLY
13 ANALYZED AND MITIGATED IN THE CLOSURE PLAN AND THE
14 EIR?

15 MR. BEASLEY: ABSOLUTELY. THAT IS ONE OF
16 THE MAIN FOCUSES OF THE SUBSEQUENT ENVIRONMENTAL
17 IMPACT REPORT IS TO ANALYZE THE VISUAL IMPACTS OF
18 THE PROJECT WHICH WAS CONSTRUCTED.

19 CHAIRMAN PENNINGTON: ANY OTHER QUESTIONS
20 OF MR. BEASLEY? OKAY. THANK YOU, MR. BEASLEY.

21 NEXT WE'LL HEAR FROM JOE MINNER.

22 MR. MINNER: GOOD MORNING. THANK YOU,
23 MR. CHAIRMAN AND MEMBERS OF THE BOARD. JUST VERY
24 BRIEFLY, TO ADD TO THE OTHER SPEAKERS THAT YOU'VE
25 JUST HEARD, A BRIEF EXPLANATION OF WHY WE BELIEVE

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1 THAT WE'RE HERE THIS MORNING.

2 SAN ELIJO RANCH AND THE CITY OF SAN
3 MARCOS WORKING TOGETHER ATTEMPTED TO GAIN BOTH
4 ELABORATE LANDSCAPING FOR THE LANDFILL AND A
5 ONE-SIDED DECISION ON THE SPLIT OF REDEVELOPMENT
6 DISTRICT PROCEEDS. THESE REDEVELOPMENT DISTRICT
7 PROCEEDS WOULD HAVE BEEN USED TO PAY FOR ROAD
8 IMPROVEMENTS IN THE SAN ELIJO RANCH DEVELOPMENT
9 AREA.

10 IN THEIR STRATEGY THEY ASSUMED THAT
11 WE, THE COUNTY, HAD TO HAVE THE SAN MARCOS
12 LANDFILL REMAIN OPEN. THE COUNTY, HOWEVER, DID
13 SOMETHING THAT WAS NOT EXPECTED. OUR BOARD OF
14 SUPERVISORS AND OUR NEW CAO MADE A BUSINESS
15 DECISION. WE CLOSED OUR MOST EXPENSIVE LANDFILL,
16 THE SAN MARCOS LANDFILL; WE LOWERED OUR RATES AT
17 OUR OTHER REGIONAL LANDFILLS; AND WE'RE CURRENTLY
18 CAPTURING A HUNDRED PERCENT OF THE WASTE THAT WE
19 PREVIOUSLY HAD SERVED, FULLY SERVING THE PUBLIC IN
20 SAN DIEGO COUNTY IN TERMS OF WASTE DISPOSAL NEEDS.

21 THE CITY OF SAN MARCOS AND SAN ELIJO
22 RANCH ARE NOW LEFT WITHOUT ANY LEVERAGE OR ANY
23 NEGOTIATING ABILITY WITH THE COUNTY OF SAN DIEGO.
24 AND THEY ARE ASKING YOU IN A LAST ATTEMPT TO
25 ENFORCE THEIR BUSINESS DEAL, NOT ENVIRONMENTAL

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1 REGULATIONS WHICH FURTHER THE PUBLIC HEALTH AND
2 SAFETY. WE SEE IT AS A LOCAL ISSUE, AND WE SEE IT
3 AS A BUSINESS ISSUE, NOT AN ENVIRONMENTAL ISSUE.
4 THANK YOU, MR. CHAIRMAN.

5 CHAIRMAN PENNINGTON: ANY QUESTIONS OF
6 MR. MINNER? OKAY. THANK YOU, MR. MINNER.

7 AND NOW LAST WE'LL HEAR FROM BOB
8 FOX. BOB FOX DOES NOT WANT TO BE HEARD. OKAY.

9 MS. CLAYTON, DO YOU HAVE ANYTHING TO
10 ADD TO THIS?

11 MS. CLAYTON: I DON'T HAVE ANYTHING.
12 MAYBE MS. TOBIAS DOES. NO.

13 CHAIRMAN PENNINGTON: OKAY. MR. CHESBRO.

14 BOARD MEMBER CHESBRO: COULD I ASK
15 COUNSEL A QUESTION?

16 CHAIRMAN PENNINGTON: CERTAINLY.

17 BOARD MEMBER CHESBRO: I'M JUST CURIOUS
18 ABOUT OUR AUTHORITY TO DELAY THE ITEM. I KNOW WE
19 HAVE SPECIFIC TIME FRAMES IN STATUTE TO HEAR --
20 MAKE DECISIONS ABOUT WHETHER TO APPEAL AND TO HEAR
21 APPEALS. AND I'M CURIOUS ABOUT WHETHER OR NOT
22 WE'RE LEGALLY ABLE TO COMPLY WITH THE REQUEST OF
23 THE APPELLANT.

24 MS. TOBIAS: MR. CHESBRO, LET ME DIRECT
25 YOUR ATTENTION AND THE BOARD'S ATTENTION TO

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1 SECTION 45031. AND I APPRECIATE THE OPPORTUNITY
2 TO CLARIFY THIS. IT WAS NOT TOTALLY CLEAR WHEN I
3 DID DISCUSS THIS WITH THE SAN ELIJO REPRESENTA-
4 TIVES YESTERDAY AFTERNOON.

5 MY INTERPRETATION OF STATUTE IS THAT
6 IF THE BOARD WANTED TO POSTPONE THE HEARING OF
7 THESE ISSUES AS THE APPELLANTS HAVE REQUESTED,
8 THAT WHAT THEY WOULD HAVE TO DO IS AGREE TO HEAR
9 THE ISSUES AND THEN SCHEDULE THE HEARING FOR JULY
10 AND THEN POSTPONE IT FROM THERE. THE STATUTE IS
11 FAIRLY SPECIFIC, AND IT SAYS WITHIN 30 DAYS FROM
12 THE DATE THAT AN APPEAL IS FILED WITH THE BOARD,
13 THE BOARD MAY DO ANY OF THE FOLLOWING. AND D,
14 SUBSECTION D, IS DETERMINE TO ACCEPT THE APPEAL
15 AND HOLD A HEARING WITHIN 60 DAYS UNLESS ALL
16 PARTIES STIPULATE TO EXTENDING THE HEARING
DATE.

17 SO THAT'S WHY THE STAFF RECOMMENDATION
BASICALLY

18 SAYS THAT WE WOULD ACCEPT THAT ONE ISSUE AND
THEN

19 POSTPONE IT.

20 IF YOU WANTED TO HEAR ALL THE
ISSUES

21 IN THE FUTURE, YOU WOULD BASICALLY NEED TO
ACCEPT

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22 THE APPEAL AND THEN POSTPONE THE HEARINGS FROM
23 THERE. OR, OF COURSE, THE OTHER OPTIONS STILL
ARE
24 IN PLACE TO REJECT IT OR TO DETERMINE NOT TO
HEAR
25 THE APPEAL.

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25 THINK THAT WE HAVE ANY AUTHORITY, ANY REASON TO

1 HEAR THESE ISSUES. THE LEA'S AUTHORITY DOES NOT
2 EXTEND TO ENFORCEMENT OF THE CUP. IN SPITE OF
ITS

3 INCORPORATION INTO THE PERMIT, THAT DOESN'T MAKE
4 IT SO MERELY BECAUSE IT'S REFERENCED IN THE
5 PERMIT.

6 AND I BELIEVE THAT WE SHOULD
REJECT

7 OR NOT HEAR ANY OF THE ITEMS RELATED TO THIS
8 APPEAL AND WAIT UNTIL SUCH TIME AS A NEW EIR IS
9 COMPLETED ON THE REVISED PROJECT. AND THEN IF
SAN

10 ELIJO RANCH WISHES TO APPEAL THAT, THAT'S THE
11 APPROPRIATE TIME TO HEAR THE WHOLE MATTER. SO I
12 WOULD MOVE THAT WE NOT HOLD A HEARING ON ANY OF
13 THE MATTERS ASSOCIATED WITH THIS APPEAL.

14 BOARD MEMBER CHESBRO: I'LL SECOND IT.

15 CHAIRMAN PENNINGTON: ANY FURTHER
16 DISCUSSION? MR. CHESBRO.

17 BOARD MEMBER CHESBRO: IN READING THE
18 INFORMATION SUBMITTED BY THE APPELLANT, I HAD
SOME

19 SYMPATHY FOR THE PROBLEM. THEY APPARENTLY FELT
20 THAT THEY HAD IN THEIR HANDS SOME COMMITMENTS AS
A

21 RESULT OF THE CUP AND THE OPERATING PERMIT FOR

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THE

22 LANDFILL TO ACHIEVE CERTAIN MITIGATIONS. AND
23 THOSE HAVE SLIPPED AWAY AS A RESULT OF A DRASTIC
24 CHANGE IN CIRCUMSTANCE FOR THE LANDFILL, WHICH
IS
25 IT ESSENTIALLY QUIT OPERATING AND IT DIDN'T

1 FULFILL ALL THE THINGS THAT WERE INTENDED IN THE
2 OPERATING PERMIT.

3 ON THE OTHER HAND, THE LEVEL OF
4 IMPACT THAT WAS INTENDED TO BE MITIGATED HAS NOT
5 OCCURRED. AND SO WHILE I WOULD UNDERSTAND THE
6 DESIRE TO STILL GET THOSE MITIGATIONS, IT'S HARD
7 TO, I THINK, EVEN IF WE HAD THE AUTHORITY TO
8 ENFORCE SOME OF THE THINGS, AS MR. FRAZEE
9 INDICATED, WE DO NOT. IT WOULD BE HARD TO
10 JUSTIFY, I THINK, IMPOSING THOSE THE WAY THEY WERE
11 LAID OUT.

12 ON THE OTHER HAND, I THINK THAT
13 THERE IS AN UPCOMING PROCESS WITH A CLOSURE PLAN
14 AND AN ENVIRONMENTAL DOCUMENT. AND THE COUNTY HAS
15 INDICATED ITS INTENT TO FULLY ANALYZE AND MITIGATE
16 THE VISUAL IMPACTS. AND SO IT SEEMS TO ME THAT'S
17 THE PROPER VEHICLE FOR THOSE DECISIONS. AND SO
18 IT'S NOT WITHOUT SYMPATHY FOR PEOPLE IMPACTED BY
19 THE LANDFILL SO MUCH AS TRYING TO MAKE SURE THAT
20 THE DECISIONS ABOUT THE IMPACTS AND THE
21 MITIGATIONS BE MADE IN THE PROPER FORUM AND THE
22 PROPER VEHICLE RATHER THAN AS A RESULT OF AN
23 OPERATING PERMIT AND CUP THAT ARE NO LONGER --
24 WELL, ONE THAT'S NO LONGER IN FORCE AND THE
OTHER
25 THAT'S NOT UNDER OUR JURISDICTION.

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1 BOARD MEMBER JONES: MR. CHAIRMAN.

2 CHAIRMAN PENNINGTON: MR. JONES.

3 BOARD MEMBER JONES: I SUPPORT THAT
4 MOTION OF MR. FRAZEE AND THE SECOND. BUT I'M A
5 LITTLE BIT WORRIED, YOU KNOW, ABOUT SOME OF THE
6 MEETINGS THAT I'VE HAD SINCE I'VE BEEN HERE
ABOUT

7 THIS PROJECT. I SEE PICTURES OF PUENTE HILLS
AND

8 THE HOPES THAT THIS SITE ENDS UP LOOKING LIKE
9 PUENTE HILLS. AND I POINTED IT OUT TO THE
10 ADVOCATES OF THE PROJECT THAT UNDER CLOSURE, A
LOT

11 OF THAT VEGETATION IS NOT ALLOWABLE. IT'S NOT
12 GOING TO WORK. IT'S -- FIRST TIME WE HAVE A
HEAVY

13 WINDSTORM, EVEN IF YOU WERE ABLE TO BURY IT IN A
14 WAY THAT YOU COULD KEEP THE INTEGRITY OF THE
15 LANDFILL COVER IN PLACE, I THINK THAT THE FIRST
16 BIG WINDS WOULD BLOW THAT STUFF OVER.

17 SO I WOULD HOPE THAT WHEN WE LOOK
AT

18 THIS REVEGETATION PLAN, THAT EVERYBODY IS AWARE
19 OF, YOU KNOW, THE CONSTRAINTS OF SUBTITLE D AND
20 WHAT WE HAVE TO DO BECAUSE IT MAY NOT BE EXACTLY

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21 WHAT SOME PEOPLE WANT TO SEE, BUT IT MAY BE ALL
WE

22 ARE GOING TO BE ABLE TO DO TO BE ABLE TO KEEP
THE

23 INTEGRITY OF THAT CLOSED LANDFILL, YOU KNOW. SO

24 I'M GOING TO SUPPORT THIS THE MOTION NOT TO HEAR
25 ANY OF THE THREE.

1 CHAIRMAN PENNINGTON: ANY OTHER
2 DISCUSSION? IF NOT, WILL THE SECRETARY CALL THE
3 ROLL.

4 BOARD SECRETARY: BOARD MEMBER CHESBRO.

5 BOARD MEMBER CHESBRO: AYE.

6 BOARD SECRETARY: FRAZEE.

7 BOARD MEMBER FRAZEE: AYE.

8 BOARD SECRETARY: GOTCH.

9 BOARD MEMBER GOTCH: AYE.

10 BOARD SECRETARY: JONES.

11 BOARD MEMBER JONES: AYE.

 BOARD SECRETARY: RELIS. CHAIRMAN
PENNINGTON.

 CHAIRMAN PENNINGTON: AYE. MOTION
CARRIES.

 THAT CONCLUDES OUR SPECIAL BOARD
MEETING.

 MS. CLAYTON: CAN I ASK THE BOARD TO
CLARIFY THE MOTION? WAS IT A MOTION TO NOT HEAR
ANY OF THE FOUR ISSUES?

 CHAIRMAN PENNINGTON: CORRECT.

 THAT CONCLUDES OUR SPECIAL BOARD
MEETING. AND NOW I THINK WE'LL ADJOURN TO THE P&E
COMMITTEE.

 (END OF PROCEEDINGS AT 9:40 A.M.)

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